

FCC MAIL SECTION

Federal Communications Commission

FCC 97-126

APR 17 11 56 AM '97

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matters of )  
)  
Petition to Amend Part 68 )  
of the Commission's Rules )  
to Include Terminal Equipment ) CC Docket No. 93-268  
Connected to Basic Rate Access )  
Service Provided via )  
Integrated Services )  
Digital Network Access Technology )  
)  
and )  
)  
Petition to Amend Part 68 of the )  
Commission's Rules to Include )  
Terminal Equipment Connected to )  
Public Switched Digital Service )

**ORDER ON RECONSIDERATION****Adopted: April 7, 1997****Released: April 10, 1997**

By the Commission:

**I. INTRODUCTION**

1. On March 7, 1996, the Commission released a *Report and Order* adopting final rules to amend Part 68 of the Commission's rules, to include Integrated Services Digital Network (ISDN) and Public Switched Digital Service (PSDS) terminal equipment.<sup>1</sup> Part 68 governs the terms and conditions under which customer-provided terminal equipment may be connected to

<sup>1</sup> See Petition to Amend Part 68 of the Commission's Rules to Include Terminal Equipment Connected to Basic Rate Access Service Provided via Integrated Services Digital Network Access Technology and Petition to Amend Part 68 of the Commission's Rules to Include Terminal Equipment Connected to Public Switched Digital Service, CC Docket No. 93-268, 11 FCC Rcd 5091 (1996) ("*ISDN Order*"). ISDN and PSDS equipment permits end-to-end digital connectivity for consumers, enabling them to move data, voice, or facsimile, either separately or simultaneously, over the same pair of copper wires. *Id.* at 5114. A pending petition for reconsideration in this docket which will be addressed in a separate order.

the nation's telephone network without causing harm to the network.<sup>2</sup> Part 68 also provides rules exempting certain equipment from the registration rules of Part 68.

2. In this *Order*, the Commission, on its own motion, amends the effective dates after which new or modified equipment connected to the ISDN and the PSDS must comply with the Part 68 rules adopted in the *ISDN Order*.<sup>3</sup> Grandfathering unmodified equipment installed on or before this date will permit an orderly implementation of new Part 68 rules by defining a transition period during which manufacturers and suppliers may use existing inventories without registering it under Part 68.<sup>4</sup> For the reasons discussed below, we amend the dates defining grandfathered equipment and thus provide Part 68 applicants 18 months to comply with the new registration requirements.<sup>5</sup>

## II. DISCUSSION

3. In the *ISDN Order*, the Commission stated that equipment connected to the PSDS, that was wired directly on or before January 1, 1996, may remain connected for its service life without registration, unless modified.<sup>6</sup> The Commission further stated that new installation of terminal equipment, including associated premises wiring, may occur until July 1, 1997, without registration, if the terminal equipment is of a type directly connected to the PSDS as of January 1, 1996.<sup>7</sup> The terminal equipment may be connected and reconnected to the PSDS for its service

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<sup>2</sup> For a history of Part 68, see Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS); Revision of Part 68 of the Commission's Rules to Specify Standard Plugs and Jacks for the Connection of Telephone Equipment of the Nationwide Telephone Network; and Amendment of Part 68 of the Commission's Rules (Telephone Equipment Registration) to Specify Standards for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems, *Memorandum Opinion and Order*, 70 FCC 2d 1800 (1979).

<sup>3</sup> *ISDN Order*, 11 FCC Rcd at 5114.

We conclude that the Commission may reconsider here, on its own motion, issues that were not raised in petitions for reconsideration once the 30 days provided for in 47 C.F.R. § 1.108 for *sua sponte* reconsideration have passed. Commission jurisdiction on reconsideration is broad. The D.C. Circuit has held that as long as reconsideration petitions were pending in a case, the Commission could reconsider *sua sponte* other issues in that case (including issues decided in previous orders for which no reconsideration petition was pending). See *Central Florida Enterprises v. FCC*, 598 F. 2d 37, 48 n.51 (D.C. Cir. 1978), *cert. dismissed*, 441 U.S. 957 (1979).

<sup>4</sup> See Amendment to Section 68.2 of the Commission's Rules to Extend Grandfather Dates of the Telephone Equipment Registration Program, CC Docket No. 21459, 67 FCC 2d 235 (1977).

<sup>5</sup> For examples of past Commission practice, see 47 C.F.R. Part 68.2.

<sup>6</sup> Wired directly means the metallic attachment of consumer equipment to telephone company lines.

<sup>7</sup> *ISDN Order*, 11 FCC Rcd at 5114.

life without registration, unless the equipment is modified.<sup>8</sup> Under our rules, existing equipment can continue to be used without being registered and thus is considered grandfathered.

4. Similarly, the Commission stated that equipment used for connection to ISDN Basic Rate Access (BRA) or Primary Rate Access (PRA) connected before January 1, 1996, may remain for its service life without registration, unless the equipment is modified.<sup>9</sup> We stated that new terminal equipment, including premises wiring, may be installed up to July 1, 1997, without registration.<sup>10</sup> Equipment installed on or before this date may remain connected and be reconnected to ISDN BRA or PRA for its service life without registration, unless the equipment is modified.<sup>11</sup> This equipment also is considered grandfathered.

5. Grandfather provisions are used to assure an orderly implementation of our equipment registration program. Generally, the Commission allows an 18-month transition period, that starts on the date new rules become effective for equipment to become compliant with our registration rules. Because of unanticipated delays in publishing the *ISDN Order* in the Federal Register, the transition period in this case has been greatly reduced. To retain the 18-month period essential to an orderly transition of equipment to the new requirements, the Commission is now modifying its current rules to extend the time frame for equipment governed by the rules adopted in the *ISDN Order*. The dates January 1, 1996 and July 1, 1997, are thus changed to November 13, 1996 and May 13, 1998, respectively.<sup>12</sup> Consequently, equipment connected by November 13, 1996 will be considered grandfathered and not subject to our registration rules under Part 68.

6. The new dates we prescribe have been calculated to ensure a "transition period during which various manufacturers and suppliers may use their existing inventories and bring their equipment into compliance with [Commission] rules."<sup>13</sup> While some suppliers and manufacturers may comply with registration requirements for equipment more quickly than our

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<sup>8</sup> *Id.* Customers and manufacturers do not have to register grandfathered equipment unless the equipment is modified. Manufacturers of grandfathered equipment, however, who wish to sell this equipment after the 18-month registration period has ended must file Form # 730 with the Commission for authorization to sell the equipment.

<sup>9</sup> *Id.* BRA consists of one or two 64 kbps information channels, and a 16 kbps channel for dialing and network access information. PRA consists of 23 64 kbps information channels, and a 64 kbps dialing and network access channel.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

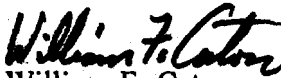
<sup>12</sup> November 13, 1996 is the date the rules became effective. May 13, 1998 is 18 months after the effective date of these rules.

<sup>13</sup> See Amendment of Section 68.2 of the Commission's Rules to Extend the Grandfather Dates of the Telephone Equipment Registration Program, 67 FCC 2d 235, 235 (1977).

rules require, the new time frame comports with Commission practice of allowing a reasonable interval for achieving compliance. We conclude that the period for grandfathering will assist parties in an orderly transition to the new rule.<sup>14</sup>

7. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), and 303(r), of the Communication Act of 1934, as amended, 47 U.S.C. Section 154(i), 154(j), and 303(r), the Part 68 rule modifications contained in Appendix A ARE ADOPTED.

**FEDERAL COMMUNICATIONS COMMISSION**

  
William F. Caton  
Acting Secretary

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<sup>14</sup> To the extent that the rule amendments allow smaller manufacturers and suppliers a reasonable opportunity to recoup costs invested in any remaining equipment inventory, they are consistent with Section 257 of the 1996 Telecommunications Act, 47 U.S.C. § 257. That section requires, among other things, that the Commission eliminate market entry barriers for small businesses who may provide parts or services to providers of telecommunications services and information services. *Id.* at § 257(a). The Commission issued a Notice of Inquiry in May 1996 to begin implementing Section 257. See Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses, Notice of Inquiry, GN Docket No. 96-113, 11 FCC Rcd 6280 (1996).

**APPENDIX A**

Title 47 the Code of Federal Regulations, Part 68 is amended as follows:

**PART 68-CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK**

1. The authority citation for Part 68 is amended to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Sections 68.2(j) and 68.2(k) are amended by revising paragraphs (j)(1), (j)(2), (k)(1), and (k)(2) to read:

**§ 68.2 Scope**

\* \* \* \* \*

(j) \* \* \*

(1) Terminal equipment, including its premises wiring directly connected to PSDS (Type I, II or III) on or before November 13, 1996, may remain for service life without registration, unless subsequently modified. Service life means the life of the equipment until retired from service. Modification means changes to the equipment that affect compliance with Part 68 rules.

(2) New installation of terminal equipment, including its premises wiring, may occur until May 13, 1998, without registration of any terminal equipment involved, provided that the terminal equipment is of a type directly connected to PSDS (Type I, II or III) as of November 13, 1996. This terminal equipment may remain connected and be reconnected to PSDS (Type I, II or III) for service life without registration unless subsequently modified.

(k) \* \* \*

(1) Terminal equipment, including premises wiring directly connected to ISDN BRA or PRA on November 13, 1996, may remain connected to ISDN BRA or PRA for service life without registration, unless subsequently modified.

(2) New installation of terminal equipment, including premises wiring, may occur until May 13, 1998, without registration of any terminal equipment involved, provided that the terminal equipment is of a type directly connected to ISDN BRA or PRA as of November 13, 1996. This terminal equipment may remain connected and be reconnected to ISDN BRA or PRA for service life without registration unless subsequently modified.

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